

CHAPTER Env-Hw 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 147-A:3

PART Env-Hw 101 PURPOSE AND APPLICABILITY

Env-Hw 101.01 Purpose. The purpose of the rules in subtitle Env-Hw is to minimize risks to the environment and public health and safety by assuring proper management of hazardous waste.

Env-Hw 101.02 Applicability. The rules in subtitle Env-Hw shall apply to management of hazardous waste in New Hampshire.

Env-Hw 101.03 Use of Number and Gender.

(a) As used in the hazardous waste rules:

- (1) Words in the singular shall include the plural; and
- (2) Words in the plural shall include the singular.

(b) As used in federal regulations incorporated by reference, words in the masculine gender shall also include the feminine and neutral genders.

PART Env-Hw 102 HAZARDOUS WASTE DEFINITIONS BASED ON FEDERAL LAW

Env-Hw 102.01 Hazardous Waste Definitions in Federal Law. Where federal provisions are adopted by reference, terms used shall be defined according to federal law, unless otherwise defined in these rules.

Env-Hw 102.02 Modifications to Federal Hazardous Waste Definitions. The following terms, when used in federal regulations incorporated by reference, shall be substituted with the analogous New Hampshire terms in the manner specified:

(a) Any reference to the "Regional Administrator" or "Administrator" in federal rules adopted by reference shall be deemed to mean the "commissioner, or designee," except when used in the following provisions of Title 40 of the Code of Federal Regulations, 262 Subpart E, 264.12(a), 265.12(a), 270.11(a)(3), 270.14(b)(20), 270.32(b)(2), 270.51;

(b) Any reference to the "U.S. Environmental Protection Agency," "Agency," "United States Environmental Protection Agency," "EPA Headquarters," "EPA Region(s)" or "EPA" in federal rules adopted by reference shall be deemed to mean the "department", except when used in the following provisions of Title 40 of the Code of Federal Regulations, 270.11(a)(3), 270.32(a), 270.32(c), 270.51, 270.72(a)(5), 270.72(b)(5), and any references to EPA identification numbers, EPA hazardous waste numbers, EPA test methods, EPA forms, EPA publications, manuals or guidance and EPA Acknowledgment of Consent; and

(c) Any reference to any provision of RCRA in federal rules incorporated by reference shall be deemed to be a reference to the comparable New Hampshire statutory provision, with the exception of 40 CFR 270.72(a)(5) and (b)(5), and the provision of 40 CFR 270.51 defining "RCRA" permit, as listed in Table 1.1 Comparison of Federal and State Statutory Provisions, below:

Table 1.1 Comparison of Federal and State Statutory Provisions

RCRA (P.L. 94-580)	U.S.C.	NH RSA
1004(5)	42 U.S.C. 6903(5)	147-A:2, VII
1004(27)	42 U.S.C. 6903(27)	147-A:2, XVIII
3004	42 U.S.C. 6924	147-A:3, IV
3005	42 U.S.C. 6925	147-A:3, IX; 147-A:4
3006	42 U.S.C. 6926	91-A
3007	42 U.S.C. 6927	147-A:7; 91-A
3008	42 U.S.C. 6928	147-A:14; 147-A:16; 147-A:16-a; 147-A:16-b
3010	42 U.S.C. 6930	147-A:3, IV; 147-A:3, VI
RCRA (P.L. 89-272)		
3013	42 U.S.C. 6934	147-A:3, VI; RSA 147-A:3, VII
3019	42 U.S.C. 6939(a)	147-A:5
7003	42 U.S.C. 6973	147-A:13

PART Env-Hw 103 HAZARDOUS WASTE DEFINITIONS: A TO K

Env-Hw 103.01 "100-year flood" means a flood that has a one percent chance of being equaled or exceeded in any given year.

Env-Hw 103.02 "100-year floodplain" is subject to a one percent or greater chance of flooding in any given year from any source.

Env-Hw 103.03 "Abandoned material" means any material which is:

- (a) Disposed of;
- (b) Burned or incinerated; or
- (c) Accumulated, stored, or treated, but not recycled, before or in lieu of being abandoned by being disposed of, burned, or incinerated.

Env-Hw 103.04 "Active fault zone" means a land area which, according to geological evidence, has exhibited movement along a fault within the past 10,000 years.

Env-Hw 103.05 "Active portion" means that portion of a hazardous waste facility where treatment, storage, or disposal operations are being or have been conducted on or after, November 19, 1980. Active portion does not mean that portion of a hazardous waste facility that has been closed in accordance with a closure plan approved in accordance with Env-Hw 707.02 and Env-Hw 708.02.

Env-Hw 103.06 "Administrator" means the administrator of the United States Environmental Protection Agency or his/her designee.

Env-Hw 103.07 "Antifreeze" means an ethylene glycol or propylene glycol based material that is full strength or diluted with only water for use as protection against freezing, overheating, and corrosion of the cooling system of an internal combustion engine.

Env-Hw 103.08 "Aquiclude" means an impermeable or poorly permeable bed, formation, or group of formations that impedes groundwater movement and does not yield water freely to a well or spring.

Env-Hw 103.09 "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of groundwater to wells or springs.

Env-Hw 103.10 "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit of a facility, such as the plant manager, superintendent or person of equivalent responsibility.

Env-Hw 103.11 "Battery" means a device consisting of one or more electrically connected electrochemical cells that are designed to receive, store, and deliver electric energy. The term "battery" includes an intact, unbroken battery from which the electrolyte has been removed.

Env-Hw 103.12 "Board" means the hazardous waste facility siting board established pursuant to RSA 147-A:4-a.

Env-Hw 103.13 "Boiler" means an enclosed device using controlled flame combustion that either:

(a) Has the following characteristics:

- (1) The unit has physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;
- (2) The unit's combustion chamber and primary energy recovery section(s) are of integral design, unless the unit is a process heater which transfers energy directly to a process stream or is a fluidized bed combustion unit;
- (3) While in operation, the unit maintains a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- (4) The unit exports and uses at least 75 percent of the recovered energy, calculated on an annual basis, excluding recovered heat used internally in the same unit for purposes such as the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps; or

(b) Has been determined by the commissioner, or designee, to be a boiler in accordance with the procedures cited in Env-Hw 810.01, after considering the standards in 40 CFR 260.32.

Env-Hw 103.14 "Bulk shipment" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

Env-Hw 103.15 "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. The term includes process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

Env-Hw 103.16 "Carcinogen" means an agent that causes cancer.

Env-Hw 103.17 "Cathode ray tube" means a glass tube used to provide the visual display in televisions, computer monitors, and certain scientific instruments, such as for example, oscilloscopes.

Env-Hw 103.18 "Certification" means a statement of professional opinion based upon knowledge and belief.

Env-Hw 103.19 "Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401, and amendments thereto amending 42 U.S.C. 1857 et seq.

Env-Hw 103.20 "Closure" means the act of securing a facility pursuant to the requirements of Env-Wm 700.

Env-Hw 103.21 "Commissioner" means "commissioner" as defined in RSA 147-A:2, I-b, namely "the commissioner of environmental services."

Env-Hw 103.22 "Confined aquifer" means an aquifer or groundwater bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself.

Env-Hw 103.23 "Constituent" means a substance, material, compound or element that is identified in Env-Hw 402.04, Env-Hw 402.05 or Env-Hw 403.06 or any other substance, material, compound or element that has resulted in a waste being listed, in accordance with the criteria of Env-Hw 405, by the department in Env-Hw 402.

Env-Hw 103.24 "Construction commenced", as used in the definition of existing facility, means:

- (a) The owner or operator has obtained the federal, state of New Hampshire and local approvals or permits necessary to begin physical construction; and
- (b) Either a continuous on-site, physical construction program has begun; or
- (c) The owner or operator has entered into major contractual obligations which cannot be cancelled or modified for physical construction of the facility to be completed within a reasonable time.

Env-Hw 103.25 "Container" means any portable device in which material is stored, transported, treated or disposed of, or otherwise handled.

Env-Hw 103.26 "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

Env-Hw 103.27 "Council" means the waste management council established by RSA 21-O:9.

Env-Hw 103.28 "Delisted" means that a petitioner's hazardous waste is no longer considered by the department to be a listed waste.

Env-Hw 103.29 "Delisting" means the process specified in Env-Hw 406 by which a person can ask for a listed hazardous waste to be a delisted waste.

Env-Hw 103.30 "Department" means "department" as defined in RSA 147-A:2, II-a, namely "the department of environmental services."

Env-Hw 103.31 "Designated facility" means:

- (a) A hazardous waste treatment, storage, or disposal facility that has:

(1) Received a permit or interim status in accordance with Env-Hw 353 or 40 CFR Part 270 and 124 or is regulated under Env-Hw 802.01(c) and (d); and

(2) Been designated on the manifest by the generator as the destination of the hazardous waste;

(b) A generator site designated on the manifest to receive waste as a return shipment from a facility that has rejected the waste in accordance with 40 CFR 264.72(f) or 265.72(f) incorporated by reference at Env-Hw 703; or

(c) If the waste is destined to another state, a facility allowed by the receiving state to accept such waste.

Env-Hw 103.32 "Dike" means an embankment or ridge used to prevent the movement of materials.

Env-Hw 103.33 "Discarded material" means any material which is abandoned, recycled, or considered inherently waste-like, as said terms are defined in Env-Hw 103 or Env-Hw 104.

Env-Hw 103.34 "Discharge" means the release of hazardous waste into or on any land, water, or air.

Env-Hw 103.35 "Displacement" means the relative movement of any two sides of a fault.

Env-Hw 103.36 "Disposal" means "disposal" as defined in RSA 147-A:2, III, namely "the discharge, deposit, incineration, injection, dumping, spilling, leaking or placing of any waste into or onto any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters."

Env-Hw 103.37 "Disposal facility" means any location or part of a location where hazardous waste is intentionally placed and will remain after closure. The term includes landfills and land treatment facilities if the waste will remain after closure.

Env-Hw 103.38 "Do-it-yourself used oil" means oil that is derived from households, such as used oil generated by individuals through the maintenance of their personal vehicles.

Env-Hw 103.39 "DOT" or "US DOT" means the United States department of transportation.

Env-Hw 103.40 "Electrochemical cell", for the purposes of the definition of "battery", means a system consisting of an anode, cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy.

Env-Hw 103.41 "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in Env-Hw 403 or are listed in Env-Hw 402 only for this reason; and

(b) Meets the definition of tank, tank system, container, transport vehicle, or vessel in Env-Hw 104.

Env-Hw 103.42 "Empty container" is a container which meets the criteria of Env-Hw 401.03(b)(20).

Env-Hw 103.43 "Energy recovery facility" means a facility that uses hazardous waste, fully or in part, as a source to produce a useful energy product.

Env-Hw 103.44 "EPA" means the United States environmental protection agency.

Env-Hw 103.45 "EPA acknowledgment of consent" means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

Env-Hw 103.46 "EPA hazardous waste number" is the EPA number assigned to each EPA hazardous waste identified in Env-Hw 400.

Env-Hw 103.47 "EPA identification number" means the site specific number assigned to each generator, transporter, transfer facility, and treatment, storage and disposal facility upon approval of a notification form.

Env-Hw 103.48 "Equivalent method" means any testing or analytical method approved by the department under Env-Hw 401.05 or by the administrator under 40 CFR 260.20 and 260.21.

Env-Hw 103.49 "Excluded scrap metal" means processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

Env-Hw 103.50 "Existing facility" means a facility which was in operation or for which construction commenced on or before July 1, 1980 or on the effective date of any statutory or regulatory amendments that render the facility subject to permit requirements under RCRA, RSA 147-A or rules adopted thereunder.

Env-Hw 103.51 "Explosive reaction" means a violent expansion or bursting in the form of a sudden release of heat or pressure, but does not include a slow or gradual buildup of heat or pressure.

Env-Hw 103.52 "Facility" means "facility" as defined in RSA 147-A:2, IV, namely "a location at which hazardous waste is subjected to treatment, storage or disposal and may include a facility where hazardous waste has been generated"; except that where the hazardous waste rules apply to Quarterly Activity reports, payments into the hazardous waste cleanup fund, and administration of the fund for the siting program and household hazardous waste cleanup projects, "facility" means "facility" as defined in RSA 147-B:2, III, namely "any site, area or location where hazardous waste or hazardous materials are or have been treated, stored, generated, disposed of, or otherwise come to be located."

Env-Hw 103.53 "Fault" means a fracture along which rocks on at least one side have been displaced.

Env-Hw 103.54 "Federal Clean Water Act" means 33 U.S.C. 1251 et seq.

Env-Hw 103.55 "Foreign consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which hazardous waste will be sent.

Env-Hw 103.56 "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

Env-Hw 103.57 "Full quantity generator" means any generator who generates at a rate greater than 100 kilograms of total hazardous wastes per month.

Env-Hw 103.58 "Generator" means "generator" as defined in RSA 147-A:2, VI, namely "any person who owns or operates a facility where hazardous waste is generated."

Env-Hw 103.59 "Government entity" means the state of New Hampshire and its political subdivisions including solid waste management districts and regional planning commissions.

Env-Hw 103.60 "Groundwater" means water below the land surface in a zone of saturation.

Env-Hw 103.61 "Handler" means a universal waste handler.

Env-Hw 103.62 "Hazardous waste" means "hazardous waste" as defined in RSA 147-A:2, VII, namely "a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or

(2) Pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged; or

(b) Which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended."

Env-Hw 103.63 "Hazardous waste rules" means the rules in subtitle Env-Hw.

Env-Hw 103.64 "Hazardous waste storage area" means an area in which hazardous wastes are stored for greater than one work shift, not to exceed 12 hours.

Env-Hw 103.65 "Home scrap metal" means scrap metal, as generated by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.

Env-Hw 103.66 "Household hazardous waste collection project" means any location that accumulates, collects, transfers, or otherwise manages household hazardous waste.

Env-Hw 103.67 "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

Env-Hw 103.68 "Incompatible waste" means a hazardous waste that is not suited for placement in a particular device because it may cause corrosion or other hazards, or is not suited for commingling with another waste or material because it may produce heat, pressure, or a hazardous reaction. Examples of incompatible wastes can be found at 40 CFR Part 265, Appendix V.

Env-Hw 103.69 "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

(a) Cement kilns;

(b) Lime kilns;

- (c) Aggregate kilns;
- (d) Phosphate kilns;
- (e) Coke ovens;
- (f) Blast furnaces;
- (g) Smelting, melting and refining furnaces including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces;
- (h) Titanium dioxide chloride process oxidation reactors;
- (i) Methane reforming furnaces;
- (j) Pulping liquor recovery furnaces;
- (k) Combustion devices used in the recovery of sulfur values from spent sulfuric acid; or
- (l) Such other devices as the commissioner of the department of environmental services, in accordance with the rulemaking procedures of RSA 541-A, adds to this list on the basis of one or more of the following factors:
 - (1) The design and use of the device primarily to accomplish recovery of material products;
 - (2) The use of the device to burn or reduce raw materials to make a material product;
 - (3) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
 - (4) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
 - (5) The use of the device in common industrial practice to produce a material product; and
 - (6) Other factors, as applicable.

Env-Hw 103.70 "Inherently waste-like material" means:

- (a) Materials identified by EPA hazardous waste numbers F020, F021 unless used as an ingredient to make a product at the site of generation, F022, F023, F026, and F028; or
- (b) Materials which have been determined to be "inherently waste-like" by the department in accordance with Env-Hw 803.03(b)(5).

Env-Hw 103.71 "Injection well" means a well where hazardous wastes are injected.

Env-Hw 103.72 "Integral design", as used in the definition of boiler, means the combustion chamber and the primary energy recovery section(s), such as waterwalls and superheaters, are physically formed into one manufactured or assembled unit. The term "integral design" includes secondary energy recovery

equipment, such as economizers or air preheaters, that are not physically formed into the same unit as the combustion chamber and the primary energy recovery section. The term "integral design" does not include a unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas.

Env-Hw 103.73 "Inner liner" means a continuous layer of material placed inside a tank or container that protects the tank or container from the contained wastes or reagents used to treat the waste.

Env-Hw 103.74 "International shipments" means the transport of hazardous waste into or out of the jurisdiction of the United States.

PART Env-Hw 104 HAZARDOUS WASTE DEFINITIONS: L TO Z

Env-Hw 104.01 "Lamp" means the bulb or tube portion of an electrical lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra-red (IR) regions of the electromagnetic spectrum and includes, but is not limited to:

- (a) Fluorescent;
- (b) High intensity discharge;
- (c) Neon, mercury vapor;
- (d) High pressure sodium; and
- (e) Metal halide lamps.

Env-Hw 104.02 "Land treatment facility" means a facility or part of a facility at which hazardous waste is or has been applied onto or incorporated into the soil surface.

Env-Hw 104.03 "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

Env-Hw 104.04 "Leachate" means any liquids or suspended substances that have percolated through, or drained from, the waste.

Env-Hw 104.05 "Liner" means a continuous layer of material that restricts the downward and lateral flow of hazardous waste, its constituents, leachate, or water.

Env-Hw 104.06 "Location", as used in the definition of facility, means all contiguous land and structures, other appurtenances and improvements on the land.

Env-Hw 104.07 "Management" or "hazardous waste management" means "hazardous waste management" as defined in RSA 147-A:2, VIII, namely "the systematic control of the generation, collection, sorting, storage, processing, treatment, recovery, and disposal of hazardous waste."

Env-Hw 104.08 "Manifest" means "manifest" as defined in RSA 147-A:2, X, namely "the form used for identifying the origin, quantity, composition, routing and destination of hazardous waste."

Env-Hw 104.09 "Manifest tracking number" means the alphanumeric identification number

comprised of a unique 3-letter suffix preceded by 9 numerical digit(s), which is preprinted in item 4 of the manifest by the source of the manifest, approved by EPA pursuant to 40 CFR 262.21.

Env-Hw 104.10 "Mercury-containing device" means any product or component, excluding batteries and lamps, which contains elemental mercury necessary for its operation and housed within an outer casing and the term includes, but is not limited to:

- (a) Thermostats;
- (b) Intact mercury-containing ampules;
- (c) Thermocouples;
- (d) Thermometers;
- (e) Manometers;
- (f) Barometers;
- (g) Sphygmomanometers;
- (h) Electric switches and relays;
- (i) Gas flow regulators; and
- (j) Water meters.

Env-Hw 104.11 "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

Env-Hw 104.12 "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler or industrial furnace.

Env-Hw 104.13 "New facility" means a facility that began construction or operation after July 1, 1980.

Env-Hw 104.14 "NH hazardous waste number" means the New Hampshire number assigned by the department to each New Hampshire listed hazardous waste identified in Env-Hw 400.

Env-Hw 104.15 "New Hampshire identification number" means the site specific number assigned by the department to each generator that is not required to obtain an EPA identification number, yet is required to obtain an identification number for transportation and/or reporting purposes.

Env-Hw 104.16 "Notification form" means the form used by each generator, transporter, and owner or operator that treats, stores or disposes of hazardous waste, to notify the department of its hazardous waste activities.

Env-Hw 104.17 "Off-site" means any site which is not on-site.

Env-Hw 104.18 "On-site" means the same or geographically contiguous property, which may be divided by public or private right-of-way provided the entrance and exit between the properties is at a cross-roads intersection and access is by crossing as opposed to going along the right-of-way. The term includes non-contiguous properties owned by the same person but connected by a right-of-way which that person controls and to which the public does not have access.

Env-Hw 104.19 "Operator" means "operator" as defined in RSA 147-A:2, XI, namely "any person who, either directly or indirectly, owns, operates, or otherwise controls or directs activities at a facility."

Env-Hw 104.20 "Owner" means "owner" as defined in RSA 147-A:2, XI-a, namely "any person who, directly or indirectly, owns a facility. The term "owner" does not include a person who, without participation in the management or actual operation of a facility, holds indicia of ownership primarily to protect a mortgage on real property on which a facility is located or a security interest in personal property located at the facility."

Env-Hw 104.21 "Permit" means an authorization, license or equivalent control document issued by the department to implement the requirements of the hazardous waste rules. The term "permit" includes limited permits and emergency permits. "Permit" does not include interim status or any document that has not been the subject of final department action, such as a draft permit or proposed permit.

Env-Hw 104.22 "Permit by rule" means a permit that exists by virtue of compliance with provision(s) of the hazardous waste rules stating that a facility or activity required by RSA 147-A to have a permit is deemed to have a permit if it meets the requirements of the provision(s).

Env-Hw 104.23 "Person" means "person" as defined by RSA 147-A:2, XII, namely "any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body."

Env-Hw 104.24 "Personnel" means all individuals who work at or oversee the operation of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of the hazardous waste rules.

Env-Hw 104.25 "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, but not including any substance or mixture that:

- (a) Is a new animal drug within the meaning of Federal Food, Drug and Cosmetic Act (FFDCA) section 201(w);
- (b) Has been determined by the Secretary of the United States Department of Health, Education and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article; or
- (c) Is an animal feed within the meaning of FFDCA section 201(x).

Env-Hw 104.26 "Pile" means a non-containerized accumulation of solid, non-flowing hazardous waste used or to be used for storage or treatment.

Env-Hw 104.27 "Point source" means a discernible, confined, and discrete conveyance from which pollutants are or may be discharged, other than return flows from irrigated agriculture.

Env-Hw 104.28 "Processed scrap metal" means scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value, or to improve the handling of material. The term includes, but is not limited to:

- (a) Scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated or sorted by metal type; and
- (b) Fines, drosses, and related materials that have been agglomerated.

Env-Hw 104.29 "Prompt scrap metal" means scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap metal is sometimes called "industrial scrap metal" or "new scrap metal".

Env-Hw 104.30 "Publicly-owned treatment works (POTW)" means a system used in the treatment of municipal sewage or industrial wastes of a liquid nature that is owned by New Hampshire or a governmental subdivision.

Env-Hw 104.31 "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§6901 et seq.

Env-Hw 104.32 "Reclaimed material" means a material that is processed to recover a usable product or that is regenerated, such as recovery of lead values from spent batteries and regeneration of spent solvents.

Env-Hw 104.33 "Recycled material" means any material that is used, reused, or reclaimed, as said terms are defined in Env-Hw 103 or Env-Hw 104.

Env-Hw 104.34 "Representative sample" means a sample of a universe or whole that can be expected to exhibit the average properties of the universe or whole.

Env-Hw 104.35 "Residence" means any structure routinely occupied as a dwelling or abode, including seasonal dwellings when said dwellings are used as secondary residences that are routinely occupied by someone for greater than 90 days per year.

Env-Hw 104.36 "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

Env-Hw 104.37 "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

Env-Hw 104.38 "Scrap metal" means bits and pieces of metal parts, bars, turnings, rods, sheets, or wire or metal pieces that may be combined together with bolts or soldering, for example radiators, scrap automobiles, or railroad boxcars, which when worn or superfluous can be recycled.

Env-Hw 104.39 "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Env-Hw 104.40 "Secondary material" means any material that is reclaimed and returned to the original process or processes in which it was generated where it is reused in the production process.

Env-Hw 104.41 "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal,

commercial, or industrial wastewater plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

Env-Hw 104.42 "Small quantity generator" means any generator who generates hazardous waste at a rate of less than 100 kilograms per month of total hazardous waste and less than one kilogram per month of acutely hazardous waste.

Env-Hw 104.43 "Spent material" means "spent material" as defined in RSA 147-A:2, XII-a, namely "any material that has served its originally intended purpose and cannot be reused for that purpose without first being treated. A spent material may sometimes be discarded."

Env-Hw 104.44 "Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

Env-Hw 104.45 "Standard permit" means a permit issued to a facility in accordance with Env-Hw 304.01.

Env-Hw 104.46 "Standard temperature and pressure" means a temperature of 20°C or 68°F and a pressure of 101.03 Kilopascals or 29.92 inches of mercury.

Env-Hw 104.47 "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Env-Hw 104.48 "Storage" means "storage" as defined in RSA 147-A:2, XIII, namely "the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes."

Env-Hw 104.49 "Subsequent notification form" means the form used by each generator, transporter, and owner or operator that treats, stores, or disposes of hazardous waste, to notify the department of changes to the notification form filed by that generator, transporter, or owner or operator.

Env-Hw 104.50 "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, even if lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. The term includes holding, storage, settling, and aeration pits, ponds, and lagoons.

Env-Hw 104.51 "SW-846" means "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, Third Edition, November 1986, as amended by Update I dated July 1992, Update II dated September 1994, Update IIA dated August 1993, Update IIB dated January 1995, Update III dated December 1996, Update IIIA dated April 1998, Update IIIB dated November 2004, and Update IV dated February 2007.

Env-Hw 104.52 "Tank" means a stationary device designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthen materials such as wood, concrete, steel, or plastic and which provides structural support for the contents.

Env-Hw 104.53 "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

Env-Hw 104.54 "Teratogen" means an agent which, during the development of an embryo, causes permanent structural or functional changes in the offspring.

Env-Hw 104.55 "Terne-plated oil filters" means oil filters which are plated with terne, an alloy of lead and tin.

Env-Hw 104.56 "Thermal treatment" means the treatment of hazardous waste using elevated temperatures as a primary means of changing the chemical, physical, or biological character of the waste.

Env-Hw 104.57 "Thermostat" means a temperature control device that contains metallic mercury in an ampule.

Env-Hw 104.58 "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to a generator's process, including any industrial production process, and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment.

Env-Hw 104.59 "Trade secret" means "trade secret" as defined in RSA 147-A:2, XIV, namely "any confidential formula, pattern, device or compilation of information which is used in the employer's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. A trade secret is known to the employer and those employees to whom it is necessary to confide it."

Env-Hw 104.60 "Transfer facility" means all land and structures, including loading docks and parking, storage, and other areas, where hazardous wastes in transit are transferred from vehicle to vehicle or are removed from a transport vehicle, and temporarily stored for 10 days or less.

Env-Hw 104.61 "Transport" means "transport" as defined in RSA 147-A:2, XV, namely "the movement of hazardous wastes from the point of generation to any intermediate points and, finally, to the point of ultimate storage or disposal."

Env-Hw 104.62 "Transport vehicle" means each cargo-carrying body used for the transportation of cargo by any mode, such as a motor vehicle, trailer, or railroad freight car.

Env-Hw 104.63 "Transportation" means the movement of hazardous waste by air, rail, highway, or water.

Env-Hw 104.64 "Transporter" means "transporter" as defined in RSA 147-A:2, XVI, namely, "any person who transports hazardous waste."

Env-Hw 104.65 "Treatability study" means a study in which a hazardous waste is subjected to a treatment process, not as a means to commercially treat or dispose of hazardous waste but rather to determine:

- (a) Whether the waste is amenable to the treatment process;
- (b) What pretreatment, if any, is required;
- (c) The optimal process conditions needed to achieve the desired treatment;
- (d) The efficiency of a treatment process for a specific waste or wastes;

- (e) The characteristics and volumes of residuals from a particular treatment process;
- (f) Liner compatibility;
- (g) Corrosion and other material compatibility; or
- (h) Toxicological and health effects.

Env-Hw 104.66 "Treatment" means "treatment" as defined in RSA 147-A:2, XVII namely, "any process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize the waste or to render the waste not hazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume." The term includes the recovery of energy or residual resources from the waste.

Env-Hw 104.67 "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well where the depth of the dug well is greater than the largest surface dimension, or into any pipe, conduit, or conveyance.

Env-Hw 104.68 "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Env-Hw 104.69 "Universal waste" means any of the following hazardous wastes that may be managed in accordance with Env-Hw 1100 in lieu of Env-Hw 300 through Env-Hw 700:

- (a) Batteries;
- (b) Pesticides;
- (c) Mercury-containing devices, including thermostats;
- (d) Lamps;
- (e) Cathode ray tubes; and
- (f) Antifreeze.

Env-Hw 104.70 "Universal waste handler" means:

- (a) A generator of universal waste; or
- (b) The owner or operator of a facility, including all contiguous property, who:
 - (1) Receives universal waste from other universal waste handlers;
 - (2) Accumulates universal waste; or
 - (3) Sends universal waste to another universal waste handler, a destination facility, or a foreign destination.

Env-Hw 104.71 "Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for 10 days or less.

Env-Hw 104.72 "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Env-Hw 104.73 "Used oil collection center" means any site or facility that accepts, aggregates and/or stores used oil.

Env-Hw 104.74 "Used oil" means any oil that has been refined from crude oil which, through use or handling, has become unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties.

Env-Hw 104.75 "Used oil sludge" means residues, such as tank bottoms, which separate from used oil due to gravity or other processing.

Env-Hw 104.76 "Used or reused material" means a material that is:

(a) Employed as an ingredient including use as an intermediate in an industrial process to make a product, for example, distillation bottoms from one process used as feedstock in another process, but excluding a material from which distinct components are recovered as separate end products, such as when metals are recovered from metal-containing secondary materials; or

(b) Employed in a particular function or application as an effective substitute for a commercial product, for example, spent pickle liquor used as a phosphorous precipitant and sludge conditioner in wastewater treatment.

Env-Hw 104.77 "Vessel" means every description of watercraft used or capable of being used as a means of transport on the water.

Env-Hw 104.78 "Washout" means the movement of hazardous waste from a facility as a result of flooding.

Env-Hw 104.79 "Wastewater treatment unit" means a device which:

(a) Is part of a wastewater treatment facility that is subject to regulation under either §402 or §307(b) of the Clean Water Act;

(b) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in Env-Hw 400, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in Env-Hw 400, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in Env-Hw 400; and

(c) Meets the definition of tank or tank system in Env-Hw 104.

Env-Hw 104.80 "Waste" means "waste" as defined in RSA 147-A:2, XVIII, namely "any matter consisting of: garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other spent, discarded or abandoned material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include domestic sewage, irrigation return waters,

wastewater discharges in compliance with applicable state or federal permits, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended."

APPENDIX

Rule Section(s)	State Statute(s) or Federal Statute(s) or Regulation(s) Implemented
Env-Hw 101	RSA 147-A:3
Env-Hw 102	RSA 147-A:2; RSA 147-A:3, I; 40 CFR 260.10; 40 CFR 273.9
Env-Hw 103	RSA 147-A:2; RSA 147-A:3, I; 40 CFR 260.10; 40 CFR 273.9
Env-Hw 104	RSA 147-A:2; RSA 147-A:3, I; 40 CFR 260.10; 40 CFR 273.9